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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/767,035

01/29/2004

Roy W. Kuennen

18716.85303-001

4822

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7590

06/20/2006

WARNER, NORCROSS & JUDD  
IN RE: ALTICOR INC.  
INTELLECTUAL PROPERTY GROUP  
111 LYON STREET, N. W. STE 900  
GRAND RAPIDS, MI 49503-2489

EXAMINER

CECIL, TERRY K

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/767,035

**Applicant(s)**

KUENNEN ET AL.

**Examiner**

Mr. Terry K. Cecil

**Art Unit**

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32-42 and 71 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 32-42 and 71 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date two.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following:
  - The abstract of the disclosure is objected to because it is too long (i.e. greater than 150 words). Correction is required. See MPEP § 608.01(b).
  - The subject matter of the curvature peak (claim 32); an increasing radius of curvature (claim 33); a *dislodging* pin (claim 41) is not included in the description.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 37-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are indefinite because of the following reasons:
  - The following terms lack antecedent basis: “the lower portion” (claim 37, line 2).
  - Claims 38-39 are rejected since they suffer the same defects as the claims from which they depend.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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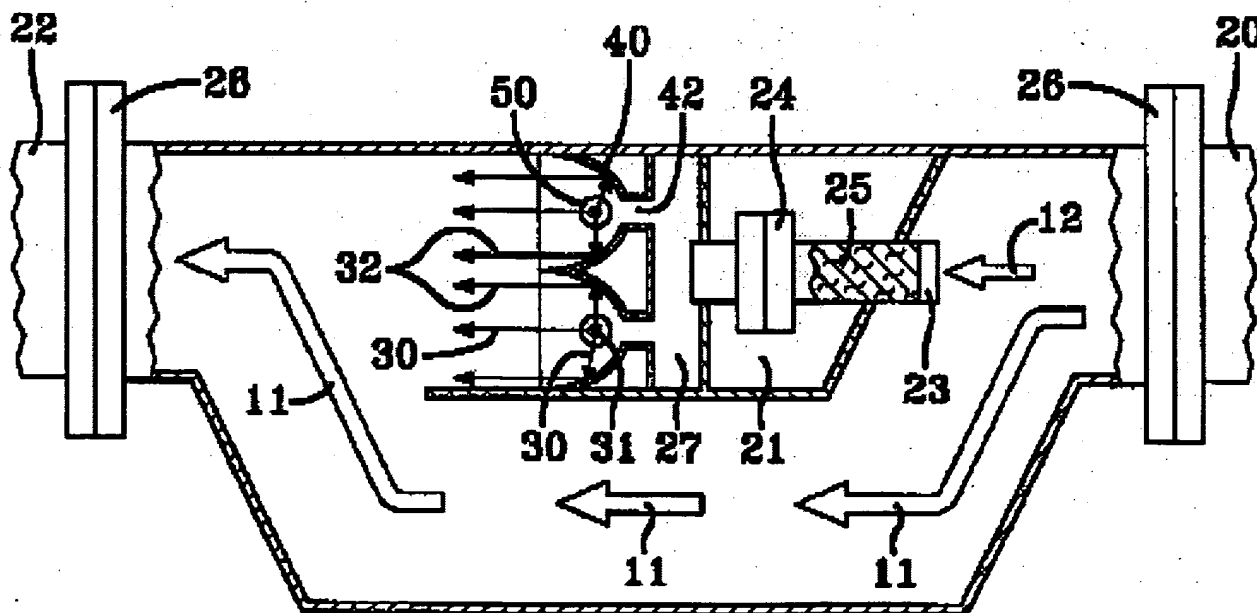
A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

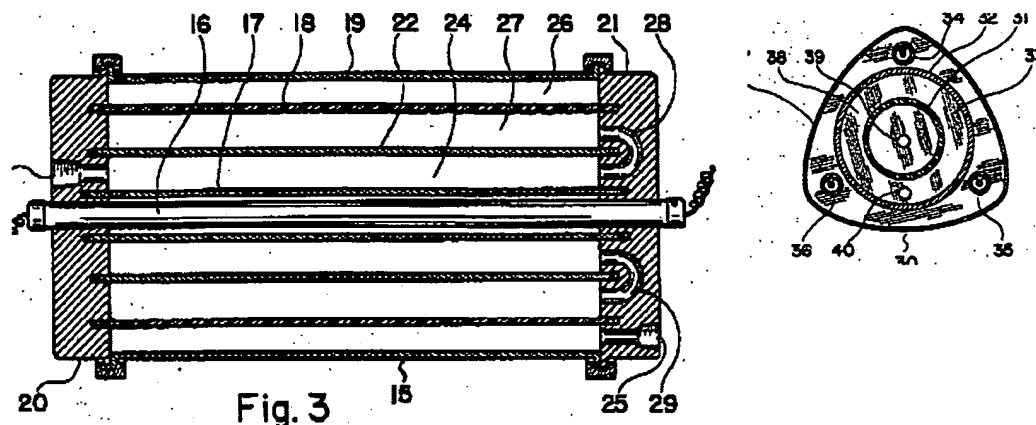
(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 32-33 and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Glazman (U.S. 5,635,133). Glazman teaches a housing including a bulb assembly 50 and a conduit (the area including the arrow heads shown below) therein. A reflector assembly 40 includes a pair of reflector having diminishing radii of curvature forming a curvature peak adjacent the bulb assembly. The reflectors reflect light away from the bulb assembly toward the conduit [as in claims 32 and 71]. The opposite ends of the reflectors includes portion of increasing radius of curvature [as in claim 33].



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6. Claims 32-33, 36-37, 40 and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Lew et al. (U.S. 4,694,179).



Lew discloses a lamp assembly comprising a housing made up of two end caps 20, 21 having a respective inlet and outlet therein. Included within the space defined between the end caps is a reflector 37 and a conduit defined by 31, 32 and a bulb assembly 34, 35, 36. The reflector includes a plurality of diminishing radii forming peaks between any two adjacent radii. The peaks are positioned adjacent the bulbs for directing substantially all the uv light toward the conduit. In a direction away from the peaks are portions of increasing radii. Midway between peaks is a small substantially planar portion.

### ***Claim Rejections - 35 USC § 103***

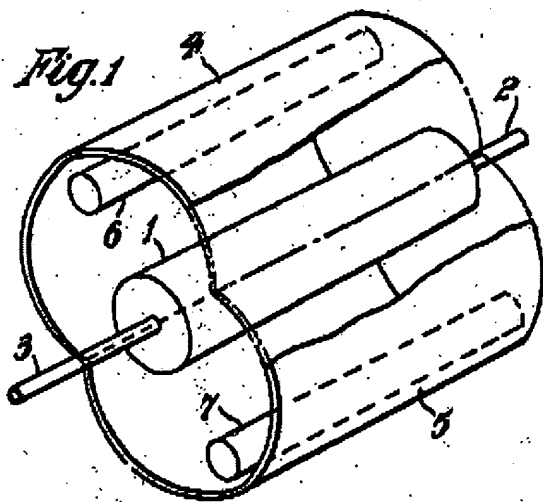
7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 32-35, 37, 40, 42 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes et al. (U.S. 3,122,492) in view of Matschke (U.S. 6,022,511).



Barnes teaches a lamp assembly comprising omega-shaped reflectors 4,5 having peaks between diminishing radii portions, wherein the peaks are adjacent bulbs 6, 7; and the reflectors are elongate. The omega-shaped reflectors include a portion of increasing radius in a direction away from the peaks [as in

claims 32-35 and 71]. Barnes does not depict a housing or supporting structures (for e.g. the inlet and outlet 2, 3) of a finished embodiment. However, such is taught by Matschke.

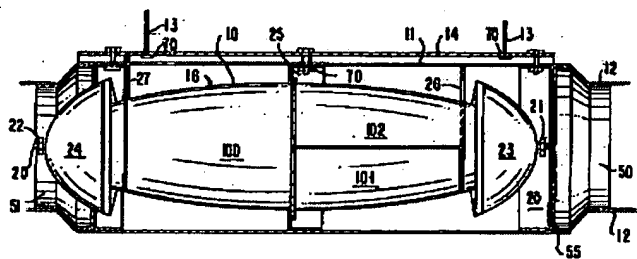


FIG. 1

Matschke teaches a finished light treating structure that includes a housing having an inlet and outlet caps for containing a reflecting assembly and lamps of an assembly [as in claims 32, 37, 40 and 42].

He also teaches flanges for abutting together portions of a wrap-around reflector assembly [as in claim 35]. It is considered that it would have been obvious to one ordinarily skilled in the art at

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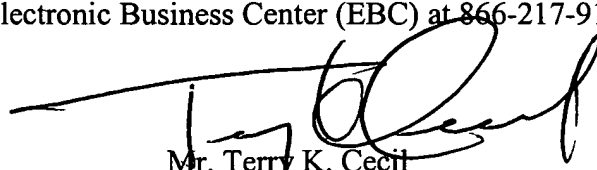
the time of the invention to have the housing assembly of Matschke in the invention of Barnes, since such would provide the benefit of a finished embodiment for use that provide support e.g. parts 10, 25. and that also provides reflecting at the end caps.

9. Claims 38-39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lew in view of Kool et al. (U.S. 6,245,229). Because of elements 8, 9, the caps of Lew are considered to be cup-shaped. Kew doesn't teach a check valve or a pin in the end caps but Kool teaches a check valve 518 in a lower end cap and a dislodging pin 422 in an upper end cap. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the check valve of Kool in the end cap of Lew, since Kool teaches the benefit of controlling flow through the apparatus to prevent return flow and the benefit of a pin for a light pipe indicator.

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10. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is (571) 273-8300.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil  
Primary Examiner  
Art Unit 1723

TKC  
June 16, 2006